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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,921	04/12/2001	Kazunori Masaki	35.G2772	5234

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NEW YORK, NY 10112

EXAMINER

BARTUSKA, FRANCIS JOHN

ART UNIT PAPER NUMBER

3627

DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/832,921

Applicant(s)

MASAKI, KAZUNORI

Examiner

F. J. BARTUSKA

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1,2,4,5,7,8,10-15,37-50,52,53 and 61-68 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Joseph. Joseph discloses a network 3 for selling shoes in a particular price range, see col. 5, lines 16-20, and outputting alternative shoes in the price range if the selected shoe is not available, see col. 6, lines 4-36.

3. Claims 1,2,4,5,7,8,10-15,22-50 and 52-68 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Walker et al. Walker et al disclose a network, see col. 3, last line to col. 4, line 2, for selling a good or service, see col. 3, line 23, at one price or upgrading to another good or service) at a round up price, see col. 3, lines 25-28 and col. 5, lines 46-
add an additional product or service

~~56.~~

or the amount tendered col. 6, line 20, 21
4. Claims 16-36 and 54-60 are rejected under 35 U.S.C. 102(a) as *or see col. 52 57-61*
being clearly anticipated by Green et al. Green et al disclose a network see col. 6, lines 54-67, for selling cars in a designated price range, see col. 9, line 66 to col. 10, line 15, and offering alternatives beyond the upper limit of the price range until an inventory match is made, see col. 10, line 61 to col. 11, line 8.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3,6,9 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. Walker et al disclose a network for selling services, see col. 3, line 23 at one price or upgrading to another service at a round up price, see col. 3, lines 25-28 and col. 5, lines 46-56. Walker et al do not disclose that the service is a binding service. It would have been obvious to one of ordinary skill in the art to offer any service including a binding service in view of the teaching in Walker et al to sell goods or services.

Specification

7. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Janssen is cited to show a real-estate method and apparatus with means to select a maximum price, see Fig.

3. Katz et al is cited for the disclosure of multiple upsells, see col. 11, lines 22-31 and col. 25, lines 5-10. The Japanese publication is cited for the disclosure of the means to input a price range, desired commodities and purchase conditions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. J. BARTUSKA whose telephone number is 703-308-1111. The examiner can normally be reached on MONDAY-FRIDAY (ALTERNATE FRIDAYS OFF).

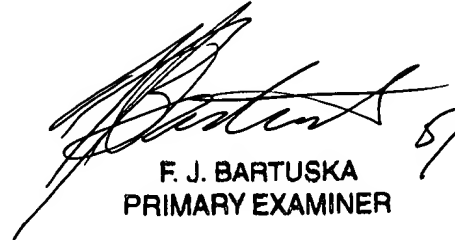
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ROBERT P. OLSZEWSKI can be reached on 703-308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

fjb
May 28, 2003

 5/28/03
F. J. BARTUSKA
PRIMARY EXAMINER